

APPEAL NO. 021315  
FILED JULY 1, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on April 24, 2002. The hearing officer determined that the appellant (claimant) is not entitled to supplemental income benefits (SIBs) for the fourth quarter.

The claimant appeals, contending that her treating doctor has not released her to return to work, and that despite having a total inability to work she made some job contacts during the latter part of the qualifying period. The respondent (carrier) responds, urging affirmance.

DECISION

Affirmed.

Section 408.142(a) and Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102 (Rule 130.102) set out the statutory and administrative rule requirements for SIBs. At issue in this case is whether the claimant met the good faith job search requirement of Section 408.142(a)(4) through a total inability to work as set out in Rule 130.102(d)(4). The hearing officer's finding that the claimant's unemployment was a direct result of her impairment has not been appealed and will not be addressed further.

Rule 130.102(d)(4) provides that an injured employee has made a good faith effort to obtain employment commensurate with the employee's ability to work if the employee has been unable to perform any type of work in any capacity, has provided a narrative from a doctor which specifically explains how the injury causes a total inability to work, and no other records show that the injured employee is able to return to work. Although the hearing officer makes no reference to Rule 130.102(d)(4) she does make a finding that the claimant "possessed a sedentary ability to work." The claimant moved out of state in June 2001 and both the treating doctor and the carrier's required medical examination (RME) doctor are out-of-state doctors. Both parties reference a treating doctor's report dated March 15, 2002, two months after the qualifying period. The doctor both states that the claimant "is able to perform more daily activities with less pain," and that she cannot "return to any form of work" and should "remain on disability until she improves to at least a limited work status." The hearing officer does not make a finding whether that report is such a narrative which specifically explains how the injury causes a total inability to work. Also in evidence is a report from the RME doctor made during the qualifying period, which states that the claimant cannot return to her preinjury job but that "she is able to return to less demanding type of work," given some work restrictions. The Appeals Panel has repeatedly encouraged hearing officers to make specific findings of fact addressing the elements of Rule 130.102(d)(4). Texas Workers' Compensation Commission Appeal No. 991973, decided October 25, 1999,

and Texas Workers' Compensation Commission Appeal No. 001153, decided June 30, 2000.

The claimant testified that after she got the RME doctor's report she made some (at most, four) job contacts. The hearing officer's determination that the claimant did not make a good faith effort to obtain employment commensurate with her ability to work is supported by the evidence. We further note that the claimant has not met the requirements of Rule 130.102(d) and (e) to qualify for SIBs.

After review of the record before us and the complained-of determination, we have concluded that there is sufficient legal and factual support for the hearing officer's decision. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **WAUSAU BUSINESS INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CT CORPORATION SYSTEMS  
350 NORTH ST. PAUL, SUITE 2900  
DALLAS, TEXAS 75201.**

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Thomas A. Knapp  
Appeals Judge

CONCUR:

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Michael B. McShane  
Appeals Judge

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Philip F. O'Neill  
Appeals Judge